

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **201206011**  
Release Date: 2/10/2012

Third Party Communication: None  
Date of Communication: Not Applicable  
Person To Contact:

Index Number: 1362.00-00

, ID No.  
Telephone Number:

Refer Reply To:  
CC:PSI:02  
PLR-130854-11  
Date:  
November 04, 2011

**LEGEND**

X =

A =

State =

Date 1 =

Dear :

This letter responds to your letter dated June 1, 2011 requesting relief under § 1362(b)(5) of the Internal Revenue Code regarding X's late S corporation election.

The information submitted states that X was incorporated on Date 1 under the laws of State. A, the sole shareholder of X, intended for X to be an S corporation for federal tax purposes effective Date 1. However, the Service has no record of receiving Form 2553, Election by a Small Business Corporation, for X.

Section 1361(a)(1) provides that the term "S corporation" means, with respect to any taxable year, a "small business corporation" for which an election under § 1362(a) is in effect for such year.

Section 1361(b)(1)(B) provides that an S corporation cannot have as a shareholder a person (other than an estate, a trust described in § 1361(c)(2), or an organization described in § 1361(c)(6)) who is not an individual.

Section 1362(a) provides that a small business corporation may elect to be an S Corporation.

Section 1362(b) provides the rule on when an S election will be effective. Section 1362(b)(2) provides that if an S election is made within the first two and one-half months of a corporation's taxable year, then the corporation will be treated as an S Corporation for the year in which the election is made. Under § 1362(b)(3), however, if an S election is made after the first two and one-half months of a corporation's taxable year, then that corporation will not be treated as an S corporation until the taxable year after the year in which the S election is filed.

Section 1362(b)(5) provides that if no § 1362(a) election is made for any taxable year, and the Secretary determines that there was reasonable cause for the failure to timely make the election, then the Secretary may treat the election as timely made for that taxable year and § 1362(b)(3) shall not apply.

Based solely on the facts submitted and the representations made we conclude that X will be treated as an S corporation effective Date 1 provided that X submits a properly completed Form 2553 to the appropriate service center. A copy of this letter should be attached to Form 2553 and is enclosed for that purpose.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express no opinion as to whether X otherwise qualifies as an S corporation.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Bradford R. Poston  
Senior Counsel, Branch 2  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2)  
Copy of this letter  
Copy for § 6110 purposes

cc: